871—24.29(96) Business closing.

24.29(1) Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the Claim for Benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks.

24.29(2) Going out of business means any factory, establishment, or other premises of an employer which closes its door and ceases to function as a business; however, an employer is not considered to have gone out of business at the factory, establishment, or other premises in any case in which the employer sells or otherwise transfers the business to another employer, and the successor employer continues to operate the business.

24.29(3) Verification of going out of business. When the unemployment insurance representative is informed by the individual or has knowledge of an employer going out of business at a factory, establishment, or other premises, the unemployment insurance representative forwards a Form 60-0240, Verification of Business Closing, to a field audit section for assignment to a field auditor who verifies the business closing. Upon return of the Form 60-0240, the workforce development center representative issues the appropriate decision based on the results of the verification.

871—24.30 Reserved.

871—24.31(96) Subsequent benefit year condition.

24.31(1) The claimant must have been paid benefits on a previous claim.

24.31(2) If the claimant has the qualifying wages for the establishment of a second benefit year as specified in Iowa Code section 96.4(4) which were earned prior to the filing of the previous claim, the claimant must, during or subsequent to that year, have worked in (except in back pay awards) and have been paid wages for insured work totaling at least $250, to fulfill the condition to be eligible for benefits on a new claim. Vacation pay is not considered as wages for second benefit year requalification purposes.

24.31(3) Insured work means insured work in any state.

24.31(4) Employment for a railroad under the Railroad Unemployment Insurance Act is insured work.

24.31(5) The amount equal to $250 in insured work need not be in addition to the qualifying wages for the establishment of a second benefit year.

24.31(6) Disqualification for lack of the $250 in insured work condition shall be removed upon the verification that the claimant worked in and has been paid wages for insured work totaling $250 during or subsequent to the previous benefit year.

This rule is intended to implement Iowa Code sections 96.4(4) and 96.4(5).

871—24.32(96) Discharge for misconduct.

24.32(1) *Definition.*

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

b. Any individual who has been discharged or suspended for misconduct connected with work is disqualified for benefits until the individual has worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

24.32(2) Reserved.

24.32(3) *Gross misconduct.*

a. For the purposes of these rules gross misconduct shall be defined as misconduct involving an indictable offense in connection with the claimant's employment, provided that such claimant is duly convicted thereof or has signed a statement admitting that such claimant has committed such act.

b. An indictable offense means a common law or statutory offense presented on indictment or on county attorney's information, and includes all felonies and all indictable misdemeanors punishable by a fine of more than $100 or by imprisonment in the county jail for more than 30 days.

24.32(4) *Report required.* The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

24.32(5) *Trial period.* A dismissal, because of being physically unable to do the work, being not capable of doing the work assigned, not meeting the employer's standards, or having been hired on a trial period of employment and not being able to do the work shall not be issues of misconduct.

24.32(6) *False work application*. When a willfully and deliberately false statement is made on an Application for Work form, and this willful and deliberate falsification does or could result in endangering the health, safety or morals of the applicant or others, or result in exposing the employer to legal liabilities or penalties, or result in placing the employer in jeopardy, such falsification shall be an act of misconduct in connection with the employer.

24.32(7) *Excessive unexcused absenteeism*. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

24.32(8) *Past acts of misconduct.* While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

24.32(9) *Suspension or disciplinary layoff.* Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

This rule is intended to implement Iowa Code section 96.5 and Supreme Court of Iowa decision, *Sheryl A. Cosper vs. Iowa Department of Job Service and Blue Cross of Iowa*.

871—24.33(96) Labor disputes.

24.33(1) *Definition*. As used in sections 96.5(3)*"b"*(1) and 96.5(4), the term labor dispute shall mean any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment regardless of whether the disputants stand in the proximate relation of employer and employee. An individual shall be disqualified for benefits if unemployment is due to a labor dispute.

24.33(2) *Initial requirements—workforce development center.*

a. As soon as the workforce development center has knowledge of a labor dispute or work stoppage in its administrative area, a report on Form 68-0535, Labor Dispute Report, shall be sent to the administrative office of the department of workforce development, attention: supervisor, claims section, advising of the labor dispute or work stoppage.

b. If the labor dispute or work stoppage is terminated before the report is transmitted to the claims section, the information concerning the termination of the dispute and the date of the worker's return to work must also be entered on Form 68-0535.

c. When the labor dispute or work stoppage is terminated subsequent to the filing of the initial Form 68-0535, the supervisor of the claims section shall be notified of the termination and return to work dates.

d. In those instances where an association represents a group of employers, include the names and addresses of the employers who are involved in the labor dispute in your report. Include also the name and address of the association and the name of the association official who can furnish information about the work stoppage.

e. In taking initial claims in which there is a labor dispute, the workforce development center will complete the Form 60-0330, Application for Job Placement Assistance and/or Job Insurance, in the normal manner and will also include the union name and local union number.

f. If a claim notice is inadvertently returned by the employer to the workforce development center stating there is a labor dispute, the protest with the postmarked envelope attached shall be transmitted to the claims section.

g. If there is a work stoppage at the premises of an employer and it is a known fact that there has not been a union and that at present there is no union representation nor any attempt by a union to organize the workers of the plant, a statement must be taken from each individual claiming benefits.

h. Statements from each individual claiming benefits are not required on the labor dispute issue whenever there is union representation even though some of the individuals may not be union members.

i. Statements from each individual claiming benefits will be taken at the workforce development center level whenever the work stoppage is considered as a nonunion stoppage, meaning no union representation at the premises of the employer. In such cases, each individual's statement would become a part of the evidence submitted to the administrative office of the department of workforce development.

j. When there is a termination of the work stoppage, or if the issues have not been resolved and all workers returned to work, a report must be made to the supervisor, claims section. The report will include the:

(1) Date on which an agreement was reached on the issues which caused the work stoppage.

(2) Date on which the workers returned to work, or a schedule as to how the workers will return to work.

k. The requirements in subrules 24.33(1) and 24.33(2) will cover the establishment and termination reports of the work stoppage and give the information necessary for the claims section to investigate the work stoppage when claims are filed on which a protest is made that the claimant is involved in a work stoppage.

l. During the period of a labor dispute, the claims involved in the labor dispute are processed as though no separation from the employer had occurred. Therefore, if an individual is still unemployed after the termination of the labor dispute, such individual has either been laid off, voluntarily left, or has been discharged from employment, and an additional claim must be taken if the individual continues in claim status.

m. When the employer or the union requests advice and information pertaining to what action they should take in regard to the labor dispute, the workforce development center, at this time, should obtain all the information possible from the caller for inclusion in the labor dispute report to the claims section.

n. The employer will receive separate notices of claim filing for each claimant and shall make any protest in the appropriate section on the reverse side of Form 65-5317, Notice of Claim. The employer will receive a copy of the decision which may be appealed.

o. Form 65-5317, Notice of Claim Filing, will be used by the employer to report total unemployment due to strike, lockout or other labor dispute.

p. Employer shall use Form 60-0154, Notice of Separation or Refusal of Work, to report separations from work by employees for reasons of voluntary leaving, misconduct and job refusal. Form 60-0154 shall not be used by employers to report labor disputes because the document is not designed for that type of an employment separation or work refusal.

24.33(3) *Initial determination.*

a. In any case in which the payment or denial of benefits will be determined by the provisions of Iowa Code section 96.5(4) the representative of the claims section shall promptly review the evidence submitted, and such additional evidence as may be required, and shall make a decision upon the issues involved under that subsection.

b. The representative of the claims section shall promptly notify all interested parties to the claim of the decision. Said parties shall have ten days, from the date of mailing the decision to the last known address of record, to appeal the decision.

871—24.34(96) Labor dispute—policy.

24.34(1) Reserved.

24.34(2) Union membership in and of itself is not the determinative factor in whether an individual is participating in, financing or directly interested in the labor dispute.

24.34(3) The relationship between employer and employee continues during the period of the labor dispute unless severed by the employer or employee.

a. If the relationship is severed by the employer, Iowa Code section 96.5(2) concerning discharge for misconduct shall govern.

b. If the relationship is severed by the employee, Iowa Code section 96.5(1) concerning voluntary leaving shall govern.

24.34(4) An individual who is unemployed because of a labor dispute and accepts employment elsewhere during the period of the labor dispute, must return to the previous employer when said labor dispute is settled or be subject to a determination on the issue of voluntary leaving.

24.34(5) Any individual unemployed because of failure or refusal to cross a picket line during a labor dispute shall be deemed to be involved in such labor dispute.

24.34(6) If an initial determination by the representative of the claims section of a labor dispute issue is appealed, the case shall be assigned to an administrative law judge, who shall receive the testimony of any party to the hearing and shall issue a decision on the labor dispute. Such decision may be appealed in conformity with these rules to the employment appeal board of the Iowa department of inspections and appeals.

24.34(7) An individual not involved in or participating in a labor dispute who failed to report to work because of a picket line shall be deemed to have voluntarily left employment. However, if the individual was subjected to hostility or violence in an attempt to cross a picket line, then the individual shall be deemed to have involuntarily left employment.

a. The department shall presume that any strike or lockout is being conducted in a lawful manner unless evidence to the contrary has been introduced. The department shall presume that any picketing is being conducted in a peaceful manner and that ingress or egress to the employer's facility is not being unlawfully impeded.

b. The department shall presume that where an injunction has been sought against actual or threatened violence, unlawful impedance of ingress or egress, or other unlawful conduct and such injunction shall have been denied on the basis that actual or threatened unlawful conduct has not been established that the picket line is peaceful unless evidence is introduced which establishes the violent nature of picket line activity.

c. If an injunction is obtained, the department shall presume the picket line is peaceful as of the date the injunction is issued unless evidence is introduced which proves the contrary proposition.

24.34(8) A lockout is not a labor dispute if the claimant is willing to continue working under the preexisting terms and conditions of the expired collective bargaining agreement for a reasonable period of time while a new collective bargaining agreement is negotiated. A lockout is a cessation of the furnishing of work to employees or a withholding of work from them in an effort to get more desirable terms for the employer.

a. The test for determining whether a stoppage of work is a lockout or labor dispute is to determine the final cause and the party ultimately responsible for the work stoppage. If the employees have offered to continue working for a reasonable period of time under the preexisting terms and conditions of employment so as to avert a work stoppage pending the final settlement of the contract negotiations and the employer refuses to maintain the status quo by extending the expired contract, the resulting work stoppage constitutes a lockout and the claimants shall not be disqualified because of a labor dispute.

b. A cessation of employment by the employer is not a lockout if:

(1) The stoppage of work is in the same facility or another facility of the employer and the claimant is directly involved in the labor dispute and the collective bargaining negotiations will directly affect the claimant's condition of employment, or

(2) The claimant or the recognized collective bargaining agent declines an offer from the employer to extend the expired collective bargaining agreement while negotiations continue for a reasonable period of time taking into consideration the nature of the employer's business, or

(3) The employer can demonstrate that its refusal to allow employees to continue working under the terms and conditions of the expired collective bargaining agreement is due to a compelling reason of such degree that the extension of the contract would be unreasonable under the circumstances.

24.34(9) To constitute a labor dispute there must be a stoppage of work at the plant or establishment. If there is no stoppage of work, the individual who leaves employment shall be deemed to have voluntarily quit.

24.34(10) When individuals, not as a group, union, or under union direction or suggestion but individually, left their work voluntarily in protest against the discharge of a fellow employee by their employer, in an unauthorized strike, it is held to be a voluntary quit.

24.34(11) Employment offered by an employer involved in a labor dispute or an employer who becomes involved in a labor dispute prior to acceptance by the claimant is considered:

a. Not suitable if the offer is made to a person who would be a new employee or a former employee who was laid off before the labor dispute and the vacancy was created by the strike, lockout, or other labor dispute.

b. Suitable if the offer was made to a former employee, who was previously laid off, provided the position offered is not vacant because of the strike, lockout, or other labor dispute and the provisions of section 96.5(4) shall apply.

c. Suitable if the offer is made to a new employee, who was not previously laid off by the same employer, and the vacancy was not created by a labor dispute.

24.34(12) Other employment accepted during periods of labor disputes does not free the claimant from the labor dispute section of the Iowa employment security law unless the claimant severs relationship with employer and obtains bona fide employment elsewhere.

This rule is intended to implement sections 96.5(3) and 96.5(4) as interpreted in the recent Supreme Court of Iowa case, *Robert A. Galvin, et al., vs. Iowa Beef Processors, Inc., et al.*, filed January 18, 1978, and to conform with federal regulations.

871—24.35(96) Date of submission and extension of time for payments and notices.

24.35(1) Except as otherwise provided by statute or by department rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the department shall be considered received by and filed with the department:

a. If transmitted via the United States postal service or its successor, on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

b. If transmitted by any means other than the United States postal service or its successor, on the date it is received by the department.

24.35(2) The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the department that the delay in submission was due to department error or misinformation or to delay or other action of the United States postal service or its successor.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The department shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to department error or misinformation or delay or other action of the United States postal service or its successor, the department shall issue an appealable decision to the interested party.

24.35(3) Any notice, report form, determination, decision, or other document mailed by the department shall be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the document, unless otherwise indicated by the facts.

871—24.36(96) Interstate benefits.

24.36(1) An interstate claimant is an individual who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state. Interstate benefits are payable under the plan approved by the interstate conference of employment security agencies to unemployed individuals absent from the state(s) in which wage credits were earned.

24.36(2) The department shall determine unemployment benefit claims for interstate claimants in accordance with applicable state law and rules and shall be in substantial compliance with those rules promulgated by the United States Department of Labor as published in the Code of Federal Regulations, Chapter 20, Parts 609, 615, 616, 617, and 650.

871—24.37(96) Payment of benefits to interstate claimants.

24.37(1) Section 96.20 of the employment security law of Iowa authorizes the department to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both. In conformity with this section, the department of workforce development prescribes:

a. Applicability. This regulation shall govern the department in its administrative cooperation with other states adopting a similar regulation for the payment of unemployment insurance benefits to interstate claimants.

b. Definitions. As used in this rule unless the context clearly requires otherwise:

(1) *"Interstate benefit payment plan."* This is the plan approved by the interstate conference of employment security agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

(2) *"Interstate claimant."* This is an individual who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state. The term interstate claimant shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the department finds that this exclusion would create undue hardship on such a claimant in a specified area.

(3) *"State."* This includes the District of Columbia, Puerto Rico, the Virgin Islands and Canada.

(4) *"Agent state."* This means any state in which an individual files a claim for benefits from another state.

(5) *"Liable state."* A liable state is any state against which an individual files, through another state, a claim for benefits.

(6) *"Benefits."* This is the compensation payable to an individual, with respect to unemployment, under the employment security law of any state.

(7) *"Week of unemployment."* This is any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

c. Registration for work.

(1) Each interstate claimant shall be registered for work, through any public employment office in the agent state when and as required by the law, rules, regulations, and procedures of the agent state. Such registration shall be accepted as meeting the registration requirements of the liable state.

(2) Each agent state shall duly report to the liable state in question whether each interstate claimant meets the registration requirements of the agent state.

d. Benefit rights of interstate claimants.

(1) If a claimant files a claim against any state, and it is determined by such state that the claimant has available benefit credits in such state, then claims shall be filed only against such state as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits.

(2) For the purposes of this regulation, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction. The department will respect the prior adjudication of a liable state if the department is made aware of the decision and will apply the Iowa requalification criteria, unless the claimant has requalified pursuant to the liable state's requalification criteria.

(3) The benefit rights of interstate claimants established by this regulation shall apply only with respect to new claims filed on or after July 5, 1953.

e. Claim for benefits.

(1) Claims for benefits shall be filed by interstate claimants on uniform interstate claim forms and in accordance with uniform procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed in accordance with the type of week in use in the agent state. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.

(2) Claims shall be filed in accordance with agent state rules for intrastate claims in the local public employment office, or at an itinerant service point, or by mail. With respect to claims for weeks of unemployment in which an individual was not working for such individual's regular employer, the liable state, under circumstances which it considers good cause, shall accept a continued claim filed up to one week, or one reporting period, late. If a claimant files more than one reporting period late, an initial claim must be used to begin a claim series and no continued claim for a past period shall be accepted. With respect to weeks of unemployment during which an individual is attached to a regular employer, the liable state shall accept any claim which is filed within the time limit applicable to the claims under the law of the agent state.

f. Determination of claims.

(1) In connection with each claim filed by an interstate claimant, the agent state shall ascertain and report to the liable state in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.

(2) The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent state shall not refuse to take an interstate claim.

g. Appellate procedure.

(1) The agent state shall afford all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.

(2) With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified representative of the agent state.

24.37(2) *Extended benefits interstate claims*. When extended benefits are in effect and a claimant is filing for extended benefits, an eligible individual shall be limited to a maximum of two weeks of the extended benefit entitlement if the individual moves from this state, before or during an extended benefit period triggered by this state's "on" indicator, to another state in which an extended benefit period is not in effect.

This rule is intended to implement Iowa Code sections 96.6(1) and 96.29(3).

871—24.38(96) Combined wage claim.

24.38(1) *Purpose of plan*. The combined wage program is to enable an unemployed worker with covered employment or wages in more than one state to combine all such employment and wages in one state in order to qualify for benefits or to receive increased benefits.

a. Each state will cooperate with every other state by implementing these uniform combined wage procedures, rules and regulations. This includes the District of Columbia and the Commonwealth of Puerto Rico.

b. The benefit year, base period, qualifying wages, benefit rate, and duration of benefits under the unemployment compensation law of the paying state shall be the benefit year, base period, qualifying wages, benefit rate, and duration of benefits applicable to a combined wage claimant.

c. The rights of the individual under the combined wage claim plan shall be determined by the paying state after the combining of all wages available from the transferring states; however, in the case in which another state transfers wages to Iowa and Iowa is the paying state, Iowa cannot again adjudicate a separation that has been previously adjudicated by the transferring state. The department shall respect the prior adjudication of the transferring state if the department is aware of the decision and will apply the Iowa requalification criteria, unless the individual has requalified pursuant to the liable state's requalification criteria.

d. All other provisions of the unemployment compensation laws and rules of the state agency of the paying state shall be applied to the combined wage claim.

e. The state in which the claim is filed will be the paying state except in those cases in which the individual does not qualify after the transfer has been completed.

24.38(2) *Exception to combining wage credits.* Under the following circumstances, wages and employment are not transferable to the paying state:

a. Any employment and wages which have been transferred to any other paying state and not returned unused.

b. Wages that have been used by the transferring state as the basis of a monetary determination which established a benefit year.

c. Any employment and wages that have been canceled or are unavailable as a result of a transferring state determination made prior to the request for transfer.

24.38(3) The claimant will be told that if there was a previous election to file a combined wage claim, the claimant may withdraw the combined wage claim any time, up to the date the paying state's monetary determination becomes final. However, if the claimant withdraws a combined wage claim and benefits have been paid, the claimant will be required to repay any such benefits. This repayment may be done by cash or by an authorization to the state(s) from which such claimant next claims benefits to reimburse the combined wage paying state for any benefits which said claimant will be paid.

871—24.39(96) Department-approved training or retraining program. The intent of department-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

24.39(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application to the department setting out the following:

a. The educational establishment at which the claimant would receive training.

b. The estimated time required for such training.

c. The occupation which the training is allowing the claimant to maintain or pursue.

24.39(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

24.39(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code section 96.4(6).

871—24.40(96) Department-approved training (DAT), state tuition—procedure.

24.40(1) For those individuals who are otherwise eligible, but who are financially incapable of paying tuition and related course fees, the department may provide up to $1,000 per individual in a 24-calendar-month period. The criteria are:

a. Funds must be available.

b. Approval of department-approved training must be received prior to payment to the educational institution.

c. Individuals must certify financial need to qualify for DAT tuition and fees. An individual cannot have income of more than 125 percent of the individual's weekly unemployment insurance benefit amount. Income is defined as unemployment insurance benefits and wages.

d. Financial assistance shall be defined as grants and scholarships for tuition and fees.

e. Tuition and fees can be approved for the length of the course up to the 24-month maximum, even if the unemployment insurance benefits subsequently exhaust or the claimant becomes ineligible.

f. Tuition and fees cannot be approved for a person who is currently attending class.

g. Any obligation to the training institution from the department-approved training assistance fund combined with other financial aid, which is awarded to the student and can only be used for tuition and fees, may not exceed the total cost of tuition and fees at the training institution.

h. Any DAT funds which are not used by the educational institution, due to whatever the reason, shall be returned to the department within 90 days of completion of the course.

24.40(2) Reserved.

This rule is intended to implement Iowa Code section 96.13(3) and 1986 Iowa Acts, chapter 1246, section 623.

871—24.41(96) Unemployed parents program (FIP/UP). Under Public Law 94-566, an unemployed parent who is eligible for both unemployment insurance and family investment program/unemployed parent (FIP/UP) shall be required to collect any unemployment insurance to which the individual is entitled before receiving any payments under the FIP/UP program.

This rule is intended to implement Iowa Code chapter 91 and Public Law 94-566.

871—24.42(96) Retention of DSS referral form. When an unemployed parent presents the DSS referral Form PA-2138-5 to the workforce development center representative, the representative will take the form, sign it and complete a Form 60-0330, Application for Job Placement Assistance and/or Job Insurance.

24.42(1) The weekly benefit amount and maximum benefit amount of the claimant will be entered in job service comments on Form PA-2138-5. If the person is not monetarily eligible, that notation will be entered and the form mailed to social services.

24.42(2) A FIP/UP claimant may have the claim protested which can affect eligibility. Social services may request additional information on a subsequent Form PA-2138-5 concerning nonmonetary allowances or disqualifications on the claim, which will be furnished in the comments section of the form.

This rule is intended to implement Iowa Code chapter 91 and Public Law 94-566.

871—24.43 and **24.44** Reserved.

871—24.45(96) Trade Act of 1974. Unemployment benefits payable to claimants under the Trade Act of 1974 (P.L. 93-618), shall be determined in accordance with the rules of the United States department of labor as published in the Code of Federal Regulations, chapter 29, parts 70 and 91. The Trade Act of 1974 is designed to pay unemployment benefits to workers who become unemployed due to foreign production of goods replacing domestic production.

871—24.46(96) Extended benefits.

24.46(1) *Purpose*. Extended benefits are benefits paid to an eligible individual during periods of high unemployment in a state under the Federal-State Extended Unemployment Compensation Act of 1970 as amended and the Extended Benefit Program Regulations under 20 Code of Federal Regulations Part 615. The purpose of extended benefits is to extend the period of time for which an individual may receive benefits to allow the individual additional time to locate employment in recognition of the likelihood that employment is more difficult to locate during periods of high unemployment in a state. The cost of extended benefits is shared between the federal and state governments.

24.46(2) *Determination of when extended benefits are paid.*

a. When paid. The state "on" indicator determines when extended benefits are paid in this state. A state "on" indicator is in effect during a week for which the rate of insured unemployment is 5 percent or greater and 120 percent or greater than the average of the rates of insured unemployment for the same week in the two immediately preceding calendar years.

b. When not paid. The state "off" indicator determines when extended benefits are not paid in this state. A state "off" indicator is in effect during a week for which the rate of insured unemployment is less than 5 percent or less than 120 percent of the average of the rates of insured unemployment for the same week in the two immediately preceding calendar years.

c. Period of payment. The extended benefit period is the period of time when extended benefits are paid in this state. An extended benefit period begins with the third week following a week for which there is a state "on" indicator in effect. An extended benefit period ends either with the completion of the thirteenth consecutive week beginning with the third week following a state "on" indicator, or later, with the completion of the third week following the first week for which there is a state "off" indicator. However, another extended benefit period shall not begin until the fourteenth week following the end of a previous extended benefit period.

d. Rate of insured unemployment. For the purposes of this subrule, the rate of insured unemployment means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits (excluding state plant closing benefits and benefits paid to federal civilian employees and ex-servicemembers under 5 U.S.C., chapter 85) in this state for weeks of unemployment with respect to the most recently completed 13-consecutive-week period by the average monthly insured employment for the first four of the six most recently completed calendar quarters immediately preceding the end of the 13-week period.

24.46(3) *Announcement and notice of the beginning and ending of an extended benefit period.*

a. Announcement by director. The beginning or ending date, whichever is appropriate, of an extended benefit period is announced by the director of the department of workforce development through appropriate news media in this state. As the case may be, the announcement clearly describes the unemployed individuals who may become eligible or ineligible for extended benefits.

b. Notice to individuals. The Form 65-5309, Notice to Individuals, is used by the department to notify individuals of:

(1) The beginning of an extended benefit period. The notice of potential entitlement to extended benefits is sent to each individual who has exhausted all rights to regular benefits either prior to the beginning of, or during, the extended benefit period and who has a benefit year which will not end prior to the beginning of the extended benefit. The notice describes those actions required of the individual to claim the extended benefits.

(2) The ending of an extended benefit period. The notice of termination of entitlement to extended benefits is sent to each individual who is currently filing a claim for extended benefits of the ending of an extended benefit period. The notice describes the effect on the individual's right to extended benefits.

24.46(4) *Amount and duration of extended benefits.*

a. Weekly extended benefit amount. An individual's weekly extended benefit amount paid for a week of total unemployment during the individual's eligibility period is equal to the individual's weekly regular benefit amount paid for a week of total unemployment during the individual's applicable benefit year.

b. Duration of extended benefits. The total amount of extended benefits which an individual may receive during the individual's applicable benefit year is limited to 50 percent of the total amount of regular benefits, excluding any state plant closing benefits, received by the individual during that benefit year or 13 times the individual's weekly regular benefit amount paid for a week of total unemployment during that benefit year whichever is less; however, an individual is limited to two weeks of extended benefits if the individual files an interstate claim for extended benefits in a state in which an extended benefit period is not in effect.

c. Eligibility period. The eligibility period is the period of weeks in and after an individual's benefit year which begin in an extended benefit period when an individual is eligible to receive extended benefits; however, if a benefit year ends within an individual's eligibility period for extended benefits, the remaining extended benefits which the individual is entitled to receive in that portion of the eligibility period which extends beyond the end of the individual's benefit year, is reduced, but not below zero, by an amount arrived at by multiplying the number of weeks of Federal Trade Readjustment Act benefits received by the individual during the benefit year times the individual's weekly extended benefit amount.

d. Applicable benefit year. The applicable benefit year includes the period of one year from the date that an individual files a valid claim for benefits and any weeks following this one-year period in which the individual's eligibility period for extended benefits has not expired and the individual is not able to establish a second benefit year for regular benefits.

24.46(5) *Eligibility requirements for extended benefits.* Except where the results are inconsistent with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 as amended and the Extended Benefit Program Regulations under 20 Code of Federal Regulations Part 615, the provisions of this state's law which apply to claims for, and the payment of, regular benefits apply to claims for, and the payment of, extended benefits. An individual is eligible to receive extended benefits for a week of unemployment during the individual's eligibility period if the department finds that all of the following conditions are met:

a. The individual is an exhaustee. An exhaustee is an individual who has exhausted all entitlements to regular benefits under this or any other state law as well as federal civilian employee and ex-servicemember benefits.

An individual is also an exhaustee:

(1) If the individual may be entitled to additional regular benefits as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit year.

(2) If the individual's benefit year has expired prior to the week, and the individual has no, or insufficient, wages on the basis of which to establish a new benefit year.

(3) If the individual has no right to benefits under other laws of the federal government, as specified in the regulations issued by the United States Secretary of Labor, or a contiguous country with which the United States has an agreement, but if the individual is seeking benefits and the appropriate agency finally determines that the individual is not entitled to the benefits, then the individual is an exhaustee.

b. The individual has one and one-half times the high quarter wages. An individual is required to have been paid wages for insured work during the individual's base period in an amount at least one and one-half times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest.

c. The individual is required to actively seek, apply for or accept, suitable work. When an individual files an initial claim for extended benefits, the Form 60-0274, Notice for Individuals Claiming Extended Benefits, is used to determine the individual's prospects for obtaining work and to notify the individual that, beginning with the week following the week in which the individual is furnished this notice:

(1) If the individual's prospects for obtaining work within a reasonably short period are "good," the individual is required to actively seek, apply for or accept, suitable work in which, all other considerations being reasonably equal, the gross average weekly wage equals or exceeds 65 percent of the individual's average weekly wage from the highest earnings quarter of the individual's base period.

(2) If the individual's prospects for obtaining work within a reasonably short period are "not good," the individual is required to actively seek, apply for or accept, suitable work which is within the individual's capabilities to perform and which offers a gross average weekly wage which exceeds the individual's weekly extended benefit amount for a week of total unemployment plus any supplemental unemployment benefits; however, the individual is not required to actively seek, apply for or accept, work which offers a gross average weekly wage less than the federal or state minimum wage whichever is higher.

(3) For the purposes of this paragraph, reasonably short period means four weeks. If an individual whose prospects for obtaining work are "good" has not secured work within four weeks following the week in which the individual is furnished the Form 60-0274, Notice to Individuals Claiming Extended Benefits, then the individual is notified on Form 65-5309, Notice to Individuals, that the individual's prospects for obtaining work are now considered as "not good."

(4) For the purposes of this paragraph, actively seeking work means that, for each week following the week in which the individual is furnished the Form 60-0274, Notice to Individuals Claiming Extended Benefits, the individual is required to provide tangible evidence on the Form 60-0151, Claim for Benefits, that the individual is making a systematic and sustained effort to search for suitable work.

(5) If prospects are determined to be "not good," an individual shall not be disqualified for failing to apply for or accept work which is not offered in writing or is not listed with this state's employment service.

d. The individual is required to requalify following a disqualification for failure to actively seek, apply for or accept, suitable work. To become eligible for extended benefits following a disqualification for failure to actively seek, apply for or accept, suitable work, the individual is required to be employed in insured work for four weeks, which need not be consecutive, and earn four times the individual's weekly extended benefit amount.

871—24.47(96) Disaster benefits. Benefits under the Disaster Relief Act of 1974. Unemployment benefits payable under Public Law 93-288, the Disaster Relief Act of 1974, will be determined in accordance with the rules of the United States Department of Labor and published in the Code of Federal Regulations, chapter 20, parts 625 and 650, and chapter 32, part 1710.16. These benefits are payable to claimants who are unemployed due to natural disasters. A claimant who is eligible for regular unemployment benefits shall not be eligible for disaster relief benefits.

871—24.48(96) UCFE claims. Benefits under the Federal Employer's Compensation Act. Unemployment benefits for civilian federal employees shall be determined in accordance with the applicable state law and rules as well as the rules of the United States Department of Labor and published in the Code of Federal Regulations, chapter 20, parts 609, 615, 616, 617, and 650. These benefits are payable under the Federal Employer's Compensation Act, 5 U.S.C. 8101-8150, 8191-8193, and are based on wages earned by civilians in covered federal employment.

871—24.49(96) UCX claims. Benefits under the Ex-servicemember's Unemployment Compensation Act.

24.49(1) *Applicable law.* Unemployment benefits for ex-military personnel shall, in addition to being determined in accordance with applicable Iowa law and rules, be determined in substantial compliance with the rules and guidelines of the United States Department of Labor and published in the Code of Federal Regulations, chapter 20, parts 614 and 650.

24.49(2) *When payable.* These benefits are payable under the Ex-servicemember's Unemployment Compensation Act of 1958, 5 U.S.C. 8850. They allow unemployment compensation to be based on wages earned while on active military duty.

871—24.50(96) Federal supplemental compensation (FSC) program.

24.50(1) The FSC program is federally funded and administered by the department and provides an additional maximum of 14 weeks of unemployment insurance payments to individuals who remain unemployed and have exhausted all rights to regular and extended benefits.

24.50(2) Claims for federal supplemental compensation shall be processed and determined in accordance with Iowa Code chapter 96 and the Iowa administrative rules in accordance with the agreement signed by the governor and the secretary of the United States Department of Labor.

24.50(3) Eligibility condition. An individual shall be eligible for federal supplemental compensation only if the individual has a benefit year which ends on or after June 1, 1982, or the individual was entitled to extended benefits for a week beginning on or after that date.

24.50(4) The maximum benefit amount payable shall be the lesser of 65 percent of the total amount of regular unemployment insurance benefits to which the individual is entitled or 14 times the individual's weekly benefit amount.

24.50(5) This program will be administered in accordance with the provisions of Iowa Code section 96.29 regarding extended benefits.

This rule is intended to implement Iowa Code section 96.11, subsections 1 and 11.

871—24.51(96) School definitions.

24.51(1) Educational institution means public, nonprofit, private and parochial schools in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher. It is approved, licensed or issued a permit to operate as a school by the department of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school. The course of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

24.51(2) Educational service agency means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

24.51(3) Employment definitions.

a. Professional employees including educational service agency employees means persons who are employed in an instructional, research or principal administrative capacity as explained below:

(1) Instructional: Services performed for an educational institution which consist of teaching in formal classroom and seminar situations, tutoring, or lecturing in the activity of imparting knowledge; or of services which consist of directing or supervising the instructional activities of others; or services which consist of counseling, advising, or otherwise determining curriculum, courses, and academic pursuits for students.

(2) Research: Services performed for an educational institution which consist of careful and systematic study and investigation in a field of science and knowledge, undertaken to establish facts or principles. The work performed is in a predominantly intellectual field or artistic endeavor which is varied in character and requires the constant exercise of discretion and judgment in performance. The work further requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study.

(3) Principal administrative: Services performed for an educational institution which consist of managing the educational institution or one of its major divisions or departments. Such services include the responsibility for establishing and administering policies, rules, and regulations which have major impact on the overall operations and functions of the educational institutions or one of its major divisions or departments. Work and activities are performed under general direction and broad objectives and missions, with the authority to determine goals and the techniques and methods of operations of the educational institution or one of its major divisions or departments. The duties performed by the individual rather than the title held should determine whether the prohibition applies. Neither providing a title nor withholding it should be controlling in itself.

b. Nonprofessional employees including educational service agency employees means persons who perform services in any capacity for an educational institution other than in an instructional, research, or principal administrative capacity.

24.51(4) Holiday recess. See vacation period subrule 24.51(8).

24.51(5) Institution of higher education means an educational institution which admits as regular students individuals having a certificate of graduation from a high school, or the recognized equivalent of such certificate; is legally authorized in this state primarily to provide a program of education beyond high school; provides an educational program for which it awards a bachelor's or higher degree or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and is a public or other nonprofit institution.

24.51(6) Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

24.51(7) School duration period.

a. Academic year is defined as that period of time that school personnel are obligated by contract to render services to the educational institution during the school year.

b. Term is defined as either of the two periods into which the yearly period of instruction is normally divided, commonly referred to as a semester. If the educational institution operates on a quarterly basis, then term shall mean the same as a quarter period. If the educational institution operates on a trimester basis, then term shall mean the same as a trimester period or any other division in a school year during which instruction is regularly given to students.

c. Twelve-month employment. School employees that perform services for educational institutions 12 months of a calendar year or years.

24.51(8) Vacation period or holiday recess. In Iowa Code section 96.4(5), the term "established and customary" vacation period or holiday recess involved in this provision includes those scheduled at Christmas and in the spring, when those vacation periods or recesses occur within a term.

24.51(9) Between terms or academic years denial means any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such terms or academic years.

871—24.52(96) Determining eligibility of school claims after employer protest.

24.52(1) Claim filed. When a claim has been filed by an employee of an educational institution, the department shall send a Form 65-5317, Notice of Claim, to the educational institution and such educational institution wishing to protest such a claim shall return such notice to the department and shall include on it a statement as to whether or not the individual who filed a claim had been given reasonable assurance for the ensuing academic year or term. The statement should include the date and method of such notification. A copy of the notification may be attached to Form 65-5317, Notice of Claim.

24.52(2) If the statement from the school indicates that there is no reasonable assurance of the employee returning to work for the ensuing academic year or term, the claim will be allowed, subject to meeting all other eligibility requirements. However, if an educational institution submits a statement or the claimant furnishes information concerning a reasonable assurance of school employment, the employee is subject to a denial of benefits. If the fact-finding should result in a disqualification, the effective starting date of the disqualification shall be determined as follows:

a. No earlier than the effective starting date of the claim as it would serve no useful purpose. If the job offer was prior to the beginning date of the claim and the claimant refuses the offer, the issue shall still be adjudicated since the issue is determined as a voluntary quit rather than a job refusal pursuant to subrules 24.25(37) and 24.26(19).

b. The Sunday of the week in which the job was offered under any of the following conditions:

(1) The employer protest was made within ten-day protest period.

(2) The department was notified within ten days of the date of the offer.

(3) The claimant was in a reporting status on a claim for unemployment insurance at the time the offer was made and the claimant failed to notify the department of the offer.

c. The Sunday of the week in which the claimant or employer notified this department of the offer unless the offer was prior to the week that the department was notified of the offer and the claimant was in reporting status on a claim for unemployment insurance at that time. In this situation, the effective starting date of disqualification shall be the Sunday of the week in which the job offer was made.

d. The Sunday of the week in which the employer notified the department of the offer to the claimant. A refusal to accept the offer of employment shall be adjudicated under the voluntary quit section of the law pursuant to subrules 24.25(37), 24.26(19) and 24.52(11).

24.52(3) Professional employee. Unemployment insurance payments which are based on school employment shall not be paid to a professional employee for any week of unemployment which begins between two successive academic years, between regular terms, or during a period of paid sabbatical leave if the individual has a contract or reasonable assurance to perform services in any such capacity for any educational institution for both such academic years or both such terms. However, unemployment insurance payments can be made which are based on non-school-related wage credits pursuant to subrule 24.52(6).

24.52(4) Nonprofessional employee.

a. Unemployment insurance payments which are based on school employment shall not be paid to a nonprofessional employee for any week of unemployment which begins between two successive academic years or terms if the individual has performed service in the first of such academic years or terms and there is a reasonable assurance that such individual will perform services for the second academic year or term. However, unemployment insurance payments can be made based on non-school-related wage credits pursuant to subrule 24.52(6).

b. The nonprofessional employee may qualify for retroactive unemployment insurance payments if the school employment fails to materialize in the following term or year and the individual has filed weekly or biweekly claims on a current basis during the between terms denial period pursuant to subrule 24.2(1), paragraph *"e."*

24.52(5) Twelve-month, year-round employee. An educational institution employee who performs services on a 12-month, year-round basis whose employment is terminated through layoff or reduction in force prior to the completion of the 12-month period, is eligible for benefits and shall not be disqualified under the provisions of Iowa Code section 96.4(5). An offer of reemployment to the 12-month, year-round employee for the succeeding academic year or term shall be adjudicated under Iowa Code section 96.5(3), regarding offers of suitable work and no disqualification may be imposed prior to the week in which the employment is scheduled to commence.

24.52(6) Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient nonschool wage credits remain on the claim to qualify under Iowa Code section 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

24.52(7) Head start programs are considered educational in nature; however, the employing unit as a whole must have as its primary function the education of students. When the employing unit is operated primarily for educational purposes then the between terms denial established by Iowa Code section 96.4(5) will apply between two successive academic years or terms and will apply for holiday and vacation periods to deny benefits to school personnel.

a. A nonprofit organization which has as its primary function civic, philanthropic or public assistance purposes does not meet the definition of an educational institution. Community action programs which have a head start school as one component are not an educational institution employer and the between terms denial does not apply.

b. A head start program which is an integral part of a public school system conducted by a board of education establishes an employing unit whose primary function is educational; therefore, the between terms denial would apply.

24.52(8) Wages earned and payment deferred. Many school employees receive remuneration from their school employers on a 12-month basis for the 9-month period worked. Deductions from unemployment insurance payments are on a "when earned" basis rather than on a "when paid" basis. Deferred wages currently paid which are based on earnings from a prior period are not deductible on a current week claimed pursuant to Iowa Code section 96.19(9)*"b"* and subrule 24.13(2), paragraph *"o."*

24.52(9) Vacation period and holiday recess. With respect to any services performed in any capacity while employed by an educational institution, unemployment insurance payments shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs service in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform service in the period immediately following such vacation period or holiday recess. However, the provision of subrule 24.52(6) could also apply in this situation.

24.52(10) Substitute teachers.

a. Substitute teachers are professional employees and would therefore be subject to the same limitations as other professional employees in regard to contracts, reasonable assurance provisions and the benefit denials between terms and during vacation periods.

b. Substitute teachers who are employed as on-call workers who hold themselves available for one employer and who will not search for or accept other work, are not available for work within the meaning of the law and are not eligible for unemployment insurance payments pursuant to subrule 24.22(2)*"i"*(1).

c. Substitute teachers whose wage credits in the base period consist exclusively of wages earned by performing on-call work are not considered to be unemployed persons pursuant to subrule 24.22(2)*"i"*(3).

d. However, substitute teachers engaged in on-call employment are not automatically disqualified but may be eligible pursuant to subrule 24.22(2)*"i"*(3) if they are:

(1) Able and available for work.

(2) Making an earnest and active search for work each week.

(3) Placing no restrictions on their employability.

(4) Show attachment to the labor market. Have wages other than on-call wages with an educational institution in the base period.

e. A substitute teacher who elects not to report for further possible assignment to work shall be considered to have voluntarily quit pursuant to subrule 24.26(19).

24.52(11) Declination of new contract or reasonable assurance.

a. The school employee who is not employed on a 12-month, year-round basis and who fails or refuses to accept a contract or reasonable assurance of employment in the succeeding academic term or year shall have the separation adjudicated under the voluntary quit provision of Iowa Code section 96.5(1) pursuant to subrule 24.25(37).

b. This subrule also applies to substitute teachers who fail or refuse to accept a contract or reasonable assurance of employment in the succeeding academic term or year pursuant to subrules 24.26(19) and 24.26(22).

24.52(12) Delayed offer and acceptance of a contract or reasonable assurance of employment in the succeeding term or year. School employees who are not offered a contract or reasonable assurance of employment in the succeeding academic term or year are eligible for benefits if all otherwise eligibility conditions are met. However, school employees who subsequently receive a contract or reasonable assurance of employment for the following term or year shall be disqualified under the "between terms denial" provision.

24.52(13) Continuing supplemental (part-time) school employment after loss of nonschool employment. All employers, including employers of part-time workers are notified of the filing of a claim. The school employer who continues to furnish part-time employment to the claimant may make a protest on the basis that the individual is still employed at the part-time employment and request removal of any charges to the part-time employer account, whether contributory or reimbursable, pursuant to Iowa Code section 96.7(3)*"a"*(2).

871—24.53(96) Noncovered school-related employment.

24.53(1) Pursuant to rule 871—23.20(96), wages earned by a student who performs services in the employ of a school at which the student is enrolled and is regularly attending classes (either on a full-time or part-time basis) cannot be used as wage credits for claim or benefit purposes. However, wages earned by an individual who is a full-time employee for a school whose academic pursuit is incidental to the full-time employment may be used for claim and benefit purposes.

24.53(2) Pursuant to rule 871—23.20(96), wages earned by the spouse of such a student in employment with the educational institution attended by the student cannot be used for benefit purposes if the employee-spouse is told prior to commencing the employment that the work is part of a program to provide financial assistance to the student and is not covered by unemployment insurance.

24.53(3) Pursuant to rule 871—23.21(96), wages earned by a student who is enrolled at a nonprofit or public educational institution under a program taken for credit at such institution that combines academic instruction with work experience are normally excluded from the definition of employment. Provided, however, that work performed by such individual in excess of the hours called for in the contract between the school and the employer or performed in a period of time during which the institution is on a regularly scheduled vacation and for which such student receives no academic credit shall be considered as insured employment.

871—24.54(96) Church school coverage. Schools affiliated with a church are exempt from coverage but may volunteer coverage by request to the department of workforce development. Schools not affiliated with a church are covered employers with covered employment. Church school coverage is defined pursuant to rule 871—23.27(96).

871—24.55 and **24.56** Reserved.

871—24.57(96) Athletes—disqualifications. "Athletes" as used in Iowa Code section 96.5(9), is intended to apply to professional athletes. A professional athlete is an individual whose occupation is participating in athletic or sporting events for wages. A semiprofessional athlete is within the scope of Iowa Code section 96.5(9), if such sports services are compensation in covered wages. Auxiliary personnel, such as coaches, trainers, etc., are not considered professional athletes and are not within the scope of Iowa Code section 96.5(9).

24.57(1) As used in Iowa Code section 96.5(9), "any services, substantially all of which consist of participating in sports or athletic events" means all services performed by an individual in any subject employment during the individual's base year if such individual was engaged in remunerative sports or athletic events for 90 percent or more of the total time spent in subject employment during such base year.

24.57(2) As used in Iowa Code section 96.5(9), "participating in sports or athletic events" means any services performed in an athletic activity by an individual as:

a. A regular player or team member.

b. An alternate player or team member.

c. An individual in training to become a regular player or team member.

d. An individual who, although performing no active services, is retained as a player or team member while recuperating from illness or injury.

24.57(3) The beginning and ending dates of any sport season and the beginning and ending dates of the time period between two successive sport seasons shall be determined by the department after taking into consideration factors of custom and practice within a particular sport, published dates for beginning and ending of a season and any other information bearing upon such determination.

24.57(4) For the purposes of Iowa Code section 96.5(9), a reasonable assurance that an individual will perform services in sports or athletic events in a subsequent season is presumed to exist if:

a. The individual has an express or implied multiyear contract which extends into the subsequent sport season, or,

b. The individual is free to negotiate with other teams or employers for employment as a participant in the subsequent sport season, and

c. There is reason to believe that one or more employers of participants in athletic events is considering or would be desirous of employing the individual in an athletic capacity in the subsequent sport season, and

d. The individual has not clearly and affirmatively withdrawn from participating in remunerative and competitive sports or athletic events.

24.57(5) Benefits which will be paid with respect to weeks of unemployment during a sports season shall be based on all wage credits of the individual. Wage credits would include those earned in sports as well as in other employment covered by an employment security law. With respect to weeks of unemployment that begin during a period between sports seasons (or similar periods) no benefits are payable on the basis of any athletic or nonathletic wages if substantially all (see subrule 24.57(1)) of the services performed by the individual during the base period were in sports or athletic events.

24.57(6) When a professional athlete is denied benefits because there is a reasonable assurance that the individual will again perform services as a professional athlete in the next ensuing season but the assurance fails to materialize, the denial of benefits is effective until the date established that the assurance is ineffective. Following the ineffective date, benefits can be paid if the individual is otherwise eligible. If an assurance given to an individual is found to be not a bona fide assurance, benefits are payable if the individual is otherwise eligible.

24.57(7) Benefits will be paid with respect to weeks of unemployment between sports seasons (or similar periods) based on wage credits of the individual, paid in other employment covered by employment security law except those in sports or athletic events or training, or preparing to so participate.

24.57(8) Athletes—denial of benefits. An individual (athlete) will be denied benefits between seasons based on services performed by such individual (athlete).

This rule is intended to implement Iowa Code section 96.5(9).

871—24.58(96) Voluntary shared work. The voluntary shared work program provides that employers facing a temporary shortfall may reduce the work hours of employees in an affected unit and those employees will receive a portion of their regular unemployment insurance benefits. The program is designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment insurance benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages. Additional information may be obtained by contacting the voluntary shared work coordinator. The employer may apply to participate in the program by completing a shared work plan application which must be approved by the department. The employer shall submit the plan to the department 30 days prior to the proposed implementation date. The employer will administer the program in cooperation with the department. Participating employees will complete the employee information form and biweekly claim cards and return them to the employer who will submit them to the department. Administrative penalties in force during the duration of the plan will make an employee ineligible for the program. Child support obligations will be deducted and unemployment insurance overpayments will be offset as they are for regular unemployment insurance benefits.

24.58(1) A shared work plan will last no longer than 26 weeks from the date on which the plan is first effective. The minimum length of a plan is four weeks. An employing unit is eligible for only one plan during a 24-month period.

24.58(2) Employment is considered seasonal if the production or service provided by the employment is curtailed by at least 45 percent or ceases for a four-month or longer period on an annual basis due to climatic conditions.

24.58(3) A plan which has been approved may be modified at the discretion of the department. An employer seeking modification of an approved plan must demonstrate good cause as to why the modification is necessary and must demonstrate that the factors necessitating the modification were not foreseeable at the time the plan was submitted.

24.58(4) Approval of a plan may be denied or approval of a plan may be revoked at the discretion of the department if the plan and its actual operation do not meet all the requirements stated in Iowa Code section 96.40 including, but not limited to, the providing of false or misleading information to the department, unequal treatment of any employee in the affected unit, a reduction in fringe benefits resulting from participation in the program, or failure by the employer to monitor and administer the program.

24.58(5) The employer may file in writing an appeal of a denial of approval of a plan or revocation of approval by the department within 30 days from the date the decision is issued. The employer's appeal will be forwarded to the appeals section so that a hearing may be scheduled before an administrative law judge.

24.58(6) If the employer provides as part of the plan a training program that will provide a substantive increase in the workplace and employability skills of the employee so as to reduce the potential for future periods of unemployment, the department shall consider the employee to be attending department-approved training and shall relieve the employer of charges for benefits paid to the individual attending training under the plan.

This rule is intended to implement Iowa Code section 96.40.

871—24.59(96) Child support intercept. An individual who owes a child support obligation and who has been determined to be eligible for unemployment insurance benefits under Iowa Code chapter 96, shall have this information furnished to the child support recovery unit. The department of workforce development shall deduct and withhold from benefit payments the amount which is specified by the child support recovery unit. The term "benefits" for child support intercept purposes shall be defined as meaning any compensation payable under Iowa Code chapter 96, including any amounts payable pursuant to any workforce development agreement under any federal law administered by the department.

24.59(1) *Information furnished to child support recovery unit.* The department of workforce development shall furnish information to the child support recovery unit concerning all new claims filed that are monetarily eligible for benefits under any state or federal program administered by the department.